

REMARKS

The final Office Action mailed July 26, 2007 has been carefully reviewed and the following remarks have been made in consequence thereof.

Claims 1-20 are pending in this application. Claims 9-20 are allowed. Claims 1 and 6-8 stand rejected. Claims 2-5 stand objected to.

Applicant acknowledges the Examiner's indication that Claims 9-20 are allowed and that Claims 2-5 would be allowable "if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims." Because the outstanding Office Action does not include any rejection of Claims 2, 3, 4 and/or 5 under 35 U.S.C. § 112, second paragraph, Applicant assumes that Claims 2-5 are merely objected to as depending from a rejected independent claim but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claim. Clarification is respectfully solicited.

Applicant respectfully traverses the objection to the drawings. More specifically, the Examiner suggests designating Figure 1 as "--Prior Art-- because only that which is old is illustrated." Applicant respectfully submits that FIG. 1 is a perspective view of a dishwasher including a small items basket of the present invention with a lid in a closed position and FIG. 2 is a perspective view of the basket of FIG. 1 with the lid open, as described throughout Applicant's specification, for example in the Brief Description of the Drawings section. As such, Applicant submits that FIG.1 should not be designated as prior art.

For at least the reasons set forth above, Applicant requests that the objection to the drawings be withdrawn.

The rejection of Claims 1, 7 and 8 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 2,343,657 to Fox (hereinafter referred to as "Fox") is respectfully traversed.

Fox describes a drying rack for laundered articles. The rack (A) includes a trackway (1) having two vertically spaced channel members (1a, 1b) defining channels. A plurality of elongated bars (5) are support at a first end by trackway (1) and at a second end by a support member (3) for sliding movement with respect to trackway (1) and support member (3).

More specifically, each bar (5) includes a head (6) that is slidably positioned within the channels defined within channel members (1a, 1b). Brackets (2, 4) extend vertically from trackway (1) and support member (3), respectively, and are secured to a joist (J) of a building. In order to provide the rack structure with the required stability, tie rods (12) extend between a respective bracket (2) and support member (3). Notably, Fox does not describe or suggest a **dishwasher rack basket assembly**. Further, Fox does not describe or suggest a **dishwasher rack basket assembly** including: (a) a collapsible **basket of open mesh construction comprising a plurality of walls**; (b) said **plurality of walls** comprising a **back wall, a front wall including at least one projecting slide portion**, said front wall substantially parallel with said back wall and a longitudinal axis of said collapsible basket, and a **plurality of side walls** connecting said back wall to said front wall; (c) **each of said side walls** including a front wall end, a back wall end opposite said front wall end, and **defining at least one slot extending between said front wall end and said back wall end**; (d) said at least one projecting slide portion slidably positioned within a corresponding slot of said at least one slot, said at least one projecting slide portion moveable within said corresponding slot **such that said front wall moves with respect to said back wall along a transverse axis substantially perpendicular to said longitudinal axis to position and transform said basket between a first size and a second size**; and/or (e) **said first size securing small items while permitting flow of liquid therethrough**.

Claim 1 recites dishwasher rack basket assembly including “a collapsible basket of open mesh construction comprising a plurality of walls, said plurality of walls comprising: a back wall, a front wall including at least one projecting slide portion, said front wall substantially parallel with said back wall and a longitudinal axis of said collapsible basket, and a plurality of side walls connecting said back wall to said front wall, each of said side walls including a front wall end, a back wall end opposite said front wall end, and defining at least one slot extending between said front wall end and said back wall end, said at least one projecting slide portion slidably positioned within a corresponding slot of said at least one slot, said at least one projecting slide portion moveable within said corresponding slot such that said front wall moves with respect to said back wall along a transverse axis substantially perpendicular to said longitudinal axis to position and transform said basket between a first size and a second size, said first size securing small items while permitting flow of liquid

therethrough, said second size smaller than said first size and not securing small items while permitting flow of liquid therethrough.”

For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Fox does not describe or suggest a dishwasher rack basket assembly as recited in Claim 1. More specifically, Fox does not describe or suggest **a dishwasher rack basket assembly** including: (a) a collapsible **basket of open mesh construction comprising a plurality of walls**; (b) **a back wall, a front wall including at least one projecting slide portion, and a plurality of side walls** connecting the back wall to the front wall; (c) **each side wall** including a front wall end, a back wall end opposite said front wall end, and **defining at least one slot extending between the front wall end and the back wall end**; (d) a projecting slide portion slidably positioned within a corresponding slot and moveable within the corresponding slot **such that the front wall moves with respect to the back wall along a transverse axis substantially perpendicular to the longitudinal axis to position and transform the basket between a first size and a second size**; and/or (e) **the first size securing small items while permitting flow of liquid therethrough**.

Rather, in contrast to the present invention, Fox describes a noncollapsible drying rack for laundered articles and not a dishwasher rack basket assembly including a collapsible basket. The rack as described in Fox is secured to building joists (J) by brackets (2, 4) that extend vertically from trackway (1) and support member (3), respectively. Contrary to the Examiner’s allegation at page 4 of the Office Action, Fox does not describe or suggest that brackets (2, 4) that are connected to joist (J) are “fully capable of being connected to a dishwasher rack.” Applicant further traverses the Examiner’s allegation that “[j]oists are well-known in the art to serve as a connecting means, the joist K [*sic.*] of Fox is wholly capable of being attached to a dishwasher rack.” Fox describes that brackets (2, 4) secure the rack to building joists. One skilled in the art of dishwasher rack basket assemblies would never consider the building joists as described in Fox to being suitable for attachment to a dishwasher rack.

Fox further describes the rack as including a trackway (1) and an opposing support member (3) that support elongated bars (5). In order to provide the rack structure with the required stability, tie rods (12) extend between a respective bracket (2) and support member

(3). Applicant respectfully submits that tie rods (12) as described in Fox, which the Examiner describes as “top and bottom walls 12 (back, front wall),” are not structural equivalents to the claimed back wall and front wall, which is movable with respect to the back wall.

Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Fox.

Claims 7 and 8 depend from independent Claim 1. When the recitations of Claims 7 and 8 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 7 and 8 likewise are patentable over Fox.

For at least the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 1, 7 and 8 be withdrawn.

The rejection of Claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Fox is respectfully traversed.

Fox is described above.

Claim 6 depends from independent Claim 1, which recites a dishwasher rack basket assembly including “a collapsible basket of open mesh construction comprising a plurality of walls, said plurality of walls comprising: a back wall, a front wall including at least one projecting slide portion, said front wall substantially parallel with said back wall and a longitudinal axis of said collapsible basket, and a plurality of side walls connecting said back wall to said front wall, each of said side walls including a front wall end, a back wall end opposite said front wall end, and defining at least one slot extending between said front wall end and said back wall end, said at least one projecting slide portion slidably positioned within a corresponding slot of said at least one slot, said at least one projecting slide portion moveable within said corresponding slot such that said front wall moves with respect to said back wall along a transverse axis substantially perpendicular to said longitudinal axis to position and transform said basket between a first size and a second size, said first size securing small items while permitting flow of liquid therethrough, said second size smaller than said first size and not securing small items while permitting flow of liquid therethrough.”

As discussed in great detail above, Fox does not describe or suggest a dishwasher rack basket assembly as recited in Claim 1. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Fox.

Claim 6 depends directly from Claim 1. When the recitations of Claim 6 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claim 6 likewise is patentable over Fox.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103(a) rejection of Claim 6 be withdrawn.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,



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